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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,530	03/29/2004	Volker Harle	P2001,0678	5329
26161	7590	06/26/2008	EXAMINER	
FISH & RICHARDSON PC			LUU, CHUONG A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/813,530	Applicant(s) HARLE ET AL.
	Examiner Chuong A. Luu	Art Unit 2892

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 2/11/2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) is/are withdrawn from consideration.
 5) Claim(s) is/are allowed.
 6) Claim(s) 1,2,6-8,10 and 12-25 is/are rejected.
 7) Claim(s) 3-5, 9 and 11 is/are objected to.
 8) Claim(s) are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-546)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date

5) Notice of Informal Patent Application (PTO-152)
 6) Other:

DETAILED ACTION

WITHDRAWN OF FINALITY

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

PRIOR ART REJECTIONS

Statutory Basis

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The Rejections

Claims 1-2, 5, 7-8, 10, 12, 15-21 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Cervantes et al. (U.S. 6,379,985).

Cervantes discloses a semiconductor device with

(1) providing a semiconductor body containing a substrate (160) and at least one nitride compound semiconductor disposed on the substrate (160) (see Figure 10); applying a metal layer to a surface of the semiconductor body (see Figure 10); dry-chemically removing a part of the metal layer and a part of the semiconductor body previously covered by the removed metal layer (see column 9, lines 31-45. Figures 10-11);

(2) which further comprises forming the nitride compound semiconductor as a compound having a formula $\text{Al}_y\text{In}_x\text{Ga}_{1-x-y}\text{N}$, $0 < x < 1$, $0 < y < 1$, $0 < x+y < 1$ (see column 11, line 3);

(7) which further comprises removing the part of the semiconductor body by an etching method (see column 9, lines 31-45);

(8) which further comprises applying a passivation layer to the surface of the semiconductor body and part of the metal layer, at least a further part of the metal layer not being covered by the passivation layer (see Figure 11);

(10) which further comprises forming the passivation layer to contain a silicon oxide (see column 9, line 46-48);

(12) which further comprises applying a contact metallization (see Figures 10-11);

(15) which further comprises forming the semiconductor body to be p-doped in a region adjoining the metal layer (see column 9, lines 20-30);

(16) which further comprises doping the p-doped region of the semiconductor body with a material selected from the group consisting of magnesium and ZnC (see column 9, lines 20-30);

(17) which further comprises forming the semiconductor body with a radiation-generating active layer (see Figures 10-11);

(18) wherein a semiconductor ridge structure is shaped by the partially removing of the semiconductor body step (see Figures 10-11);

(19) wherein the semiconductor ridge structure forms a waveguide at least for parts of radiation generated by the active layer (see Figures 10-11);

(20) wherein the semiconductor component a luminescence diode (see column 11, lines 39-73);

(21) wherein the luminescence diode is selected from the group consisting of light-emitting diodes, laser diodes, and laser diodes with a ridge waveguide (see column 11, lines 28-38).

(25) which further comprises removing the metal layer by an etching method (see Figures 10-11).

PRIOR ART REJECTIONS

Statutory Basis

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The Rejections

Claims 6, 13-14 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cervantes et al. (U.S. 6,379,985) in view of Uemura et al. (U.S. 7,096,873).

Cervantes teaches the above outlined features except for selecting silicon oxide as masking layer; applying sputtering back to remove metal layer, which is platinum and palladium and the thickness of the metal layer. However, Uemura discloses a semiconductor device with (13) which further comprises forming the metal layer to contain a material selected from the group consisting of platinum and palladium (see column 4, lines 50-51); (22) which further comprises forming the substrate to be n-conducting (see column 5, lines 25-55 and column 6, lines 23-38); (23) which further comprises forming the substrate to be selected from the group consisting of n-doped SiC and n-doped GaN (see column 5, lines 25-55 and column 6, lines 23-38). Even through, Shakuda and Uemura do not explicitly describe the thickness of the metal layer. However, the thickness of the metal layer is considered to be obvious. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Cervantes (accordance with the teaching of Uemura) since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a

matter of obvious design choice, and it also has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art and it is noted that the applicant does not disclose criticality in the ranges claimed. *In re Leshin*, 125 USPQ 416 and *In re Aller*, 105 USPQ 233 (see MPEP 2144.05).

Allowable Subject Matter

Claims 3-5, 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong A. Luu whose telephone number is (571) 272-1902. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thao X. Le can be reached on (571) 272-1708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chuong A Luu/
Primary Examiner, Art Unit 2892
June 2, 2008